

REMARKS

The claims are 49-67, 70-72 and 92-107 are pending in the application. Claims 68, 69, 72-91 have been cancelled without prejudice or disclaimer. Claims 65, 67, 70, and 92-104 have been withdrawn from consideration. Support for the amendment to Claim 49 may be found in the specification at page 11, line 3 to page 12, line 33, and page 14, lines 14-18. Support for new claims 105-107 may be found in claims 68 and 69. Claim 71 has been amended to incorporate the subject matter of cancelled claim 72.

Claims 49-66, 68, 69, 71, and 72 were rejected under 35 U.S.C. 112, first paragraph, Claims 49-66, 71, and 72 were rejected under 35 U.S.C. 112, second paragraph, Claims 68 and 69 were rejected under 35 U.S.C. 112, second paragraph, Claims 49-64, 66, 68, 71, and 72 were rejected under 35 U.S.C. 102(e) and Claims 49, 71, and 72 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 22 of copending Application No. 10/508,791. Applicants respectfully traverse each of these rejections.

Claims 49-66, 68, 69, 71, and 72 were rejected under 35 U.S.C. 112, first and second paragraphs. Applicants respectfully submit that the amendment of claims 49 and 71 and the cancellation of claims 72, 68 and 69 render these Section 112 rejections moot.

Claims 49-64, 66, 68, 71, and 72 were rejected under 35 U.S.C. 102(e) as allegedly anticipated by US Publication No. 2004/0072868 (Collins et al). Applicants respectfully submit that none of the compounds of Collins anticipate the claims of the present invention. The Examiner states that one of the compounds of Collins is specified in claim 68. The compound closest to those disclosed in Collins is 2-(3-{3-[[2-Chloro-3-(trifluoromethyl)benzyl](2,2-diphenylethyl)amino]propoxy}-phenyl)acetic acid, N-oxide. As noted, this compound possesses an N-oxide moiety which is neither disclosed nor suggested by Collins.

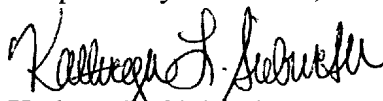
Contrary to the Examiner's assertion, the corresponding un-oxidized compound, 2-(3-{3-[[2-Chloro-3-(trifluoromethyl)benzyl](2,2-diphenylethyl)amino]propoxy}-phenyl)acetic acid, is excluded from the scope of the present invention. The Examiner contends that this compound is embraced by the instant claims when W¹ is aryl (phenyl) W² is H and W³ is aryl (phenyl). However, Applicants note that the definition of W³ does not permit this group to be an aryl or phenyl group. Withdrawal of this Section 102 rejection is respectfully requested.

Claims 49, 71, and 72 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly unpatentable over claim 22 of copending Application No. 10/508,791. The Examiner contends that the second compound specified in claim 22 of the copending application is embraced by instant claim 49, where X is $-N(R^{17})COR^{13}$. Applicants respectfully submit that the noted compound does not contain an X substituent group that is encompassed within any of claims 49, 71 or 72. This compound contains an amide substituent, where the corresponding X moiety would be a $-CONR^{10}R^{11}$ group. Withdrawal of this double patenting rejection is respectfully requested.

Applicants believe that they have addressed each of the Examiner's concerns and met each of the objections. If the Examiner has any remaining objections or concerns, the Examiner is respectfully requested to contact Applicants' undersigned attorney to resolve such issues and advance the case to issue.

Authorization to charge any fees under 37 C.F.R. §1.16 or §1.17 which may be required by these papers, or credit any overpayment, to Deposit Account No. 19-2570.

Respectfully submitted,



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